

NOT FOR CITATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IDENTITY ARTS, a California Limited
Liability Company,

Plaintiff,

No. C-05-4656 PJH

v.

**ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS AND GRANTING
LEAVE TO AMEND COMPLAINT**

BEST BUY ENTERPRISE SERVICES INC.,
a Minnesota Corporation, BEST BUY CO.,
a Minnesota Corporation, and DOES 1
through 100 inclusive,

Defendants.

Defendants' motion to dismiss claims four and five of plaintiff's complaint came on for hearing before this court on February 15, 2006. Plaintiff Identity Arts, LLC ("Identity Arts") appeared through its counsel, Drexel A. Bradshaw, and defendants Best Buy Enterprise Services Inc., and Best Buy Co. ("Best Buy"), appeared through its counsel, Robert F. Hinton and Joel D. Covelman. Having carefully reviewed the parties' papers and considered the arguments and the relevant legal authority, and good cause appearing, the court hereby GRANTS defendants' motion for the reasons stated at the hearing and summarized as follows.

Plaintiff's causes of action for unfair competition pursuant to the California Business and Professions Code section 17200 and for unjust enrichment are dismissed because they are preempted by the Copyright Act, 17 U.S.C. § 301. See Kodadek v. MTV Networks, 152 F.3d 1209, 1212 (9th Cir. 1998).

1 Identity Arts is GRANTED leave to amend its complaint. However, as the court
2 noted at the hearing, the amended complaint has already been filed. Accordingly, Best Buy
3 shall file its response no later than March 17, 2006.

4
5 **IT IS SO ORDERED.**

6 Dated: February 21, 2006



PHYLLIS J. HAMILTON
United States District Judge